

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

JOSE JUAREZ and JUANA JUAREZ,
Plaintiffs,

v.

STATE FARM LLOYDS,
Defendant.

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Civil Action No. 3:20-CV-00164

STATE FARM LLOYDS' NOTICE OF REMOVAL

1. This Notice of Removal is filed under 28 U.S.C. § 1441 based on diversity of citizenship.

I. BACKGROUND

2. Plaintiffs' Original Petition was filed in state court and assigned to the 448th Judicial District Court under Cause No. 2020-DCV-1478.¹

3. Plaintiffs assert state law claims for breach of contract, breach of the common law duty of good faith and fair dealing, Insurance Code violations, "Prompt Payment" violations, and common law fraud, all relating to certain storm damage claims."² Plaintiffs seek treble and exemplary damages.³

4. This Notice of Removal has been provided to Plaintiffs and the state court clerk.

5. Plaintiffs' Original Petition was served on May 11, 2020,⁴ thus removal is timely under 28 U.S.C. § 1446(b).

6. The El Paso Division of the Western District of Texas embraces the place where the state court case was pending; thus, venue is proper under 28 U.S.C. §§ 1441(a) and 124(d)(3).

¹ See Exh. A, Original Petition, P. 1.

² *Id.*, Parts IV and V.

³ *Id.*, Part VI.

⁴ Exh. B, CSC Service document, P. 1.

7. State Farm Lloyds answered in state court⁵ and reserves the right to plead further as permitted.

8. All documents filed in state court are attached as Exhibit A.

II. BASIS FOR REMOVAL

9. This case is being removed based on diversity of citizenship under 28 U.S.C. § 1441(b).

A. Diversity of Citizenship

10. Plaintiffs are Texas citizens.⁶ State Farm Lloyds is not a Texas citizen.⁷ Thus, the parties are completely diverse.

B. Amount in Controversy

11. For a diversity case to be removable, the amount in controversy must exceed \$75,000.⁸

12. Plaintiffs pled that “[d]iscovery...is intended to be conducted under Level 2.”⁹ In Texas state court, Level 1 applies to expedited actions,¹⁰ that is, cases where no more than \$100,000

⁵ See Exh. A, State Farm Lloyds’ Answer.

⁶ Exh. A, Original Petition, Part II, ¶ 2 (“Plaintiffs...are individuals residing in El Paso, Texas”).

⁷ Exh. C, Affidavit of Michael Roper (stating that State Farm Lloyds is an association of individual underwriters authorized to conduct business in Texas as a Lloyd’s Plan insurer as set out in Chapter 941 of the Texas Insurance Code, and that all of its underwriters are citizens of Illinois). *See also Carden v. Arkoma*, 494 U.S. 185, 189 (1990) (Unincorporated association is itself not a citizen of any state); *Royal Ins. v. Quinn-L Capital*, 3 F.3d 877, 882 (5th Cir. 1993) (for purposes of diversity jurisdiction, citizenship of each of unincorporated association’s members is considered).

⁸ See 28 U.S.C. §§ 1441(a) and 1332(a).

⁹ Exh. A, Original Petition, Part I, ¶ 1.

¹⁰ See Tex. R. Civ. P. 190.2(a)(1) (“[Level 1 applies to] any suit that is governed by the expedited actions process in Rule 169”).

is sought,¹¹ Level 2 applies where neither Level 1 nor Level 3 applies,¹² and Level 3 applies where the court orders that discovery be “tailored to the circumstances of the specific suit.”¹³ As a result, because Level 1 is mandatory in cases seeking no more than \$100,000,¹⁴ Level 2 applies only where more than \$100,000 is sought. Notably, although an exception to the expedited actions process can be made “on motion and a showing of good cause,”¹⁵ no such exception was sought by Plaintiffs.¹⁶

13. Accordingly, because this case has been pled as a Level 2 case, the amount in controversy necessarily exceeds \$100,000, and thus exceeds \$75,000 as required for federal diversity jurisdiction.

14. And while Plaintiffs also state that they seek “monetary relief of \$100,000 or less,”¹⁷ they do not state that they seek \$75,000 or less; that is, they do not state that they seek less than the amount required for federal diversity jurisdiction.

¹¹ See Tex. R. Civ. P. 169(a)(1) (providing that “expedited actions process” applies to cases where no more than \$100,000 is sought).

¹² See Tex. R. Civ. P. 190.3(a) (“Unless a suit is governed by a discovery control plan under Rules 190.2 [Level 1] or 190.4 [Level 3], discovery must be conducted in accordance with [Level 2]”).

¹³ See Tex. R. Civ. P. 190.4(a) (“The court must, on a party’s motion, and may, on its own initiative, order that discovery be conducted in accordance with a discovery control plan tailored to the circumstances of the specific suit”).

¹⁴ See Tex. R. Civ. P. 169, cmt 2 (“The expedited actions process created by Rule 169 is mandatory; any suit that falls within the definition of 169(a)(1) [i.e., seeks no more than \$100,000] is subject to the provisions of the rule,” including 169(d)(1), which provides that “[d]iscovery is governed by Rule 190.2 [i.e., Level 1]”).

¹⁵ See Tex. R. Civ. P. 169(c)(1)(A) (providing that a case can be removed from the expedited actions process “on motion and a showing of good cause”).

¹⁶ See Exh. A, Original Petition, Parts I-IX (no exception to expedited actions process sought).

¹⁷ See *id.*, Part I, ¶ 1.

III. JURY DEMAND

15. State Farm Lloyds paid for a state court jury trial and requests a jury trial in this Court.

IV. CONCLUSION

16. Wherefore, State Farm Lloyds asks that this case be placed on the Court's docket and for any other relief to which it may be justly entitled at law or in equity.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In compliance with the Federal Rules of Civil Procedure, I certify that on this 10th day of June, 2020, a true and correct copy of the foregoing document was served on:

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 Hand-Delivery

 /s/ Laura Enriquez
Laura Enriquez